A VINDICATION OF Mr. James Colmar BACHELOR of PHYSICK AND FELLOW of *Exeter* College in *Oxford.* FROM THE Calumnies of three late Pamphlets,

1. *A Paper publish'd by Dr.* Bury, 1689.
2. *The Account Examin'd.*
3. *The Case of* Exeter *College related and vindicated.*

To which are annex'd the *Authentick Copies* of the *Affidavits* relating to that *Affair.*

LONDON: Printed for *Tho. Bennet* at the Half-Moon in St. *Pauls* Church-yard, 1691.

A

VINDICATION

OF

Mr. Junius Calmer

FROM THE

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THE PREFACE.

NOTHING could be more indirect and illegal, than the Expulsion of Mr. Colmar, *except perhaps those Arts which have been made use of to defend it. The greatest Injustice will appear to be supported by no less Subornation; and the Evidence that was defective heretofore, hath not more criminally been omitted in the Tryal, than it hath been supply'd after it. At the hearing before the Vice-Chancellor, upon the Tryal it self, in the Commission of Appeal, and lastly in the Visitation; It is own'd and confess'd, that there was no legal Proof against Mr.* Colmar, *but afterwards when there was room and leisure for Artifice and Forgery, some Oaths are said to be obtain'd; and He that was sentenc'd upon Surmises, is libell'd by Affidavits. If the Reports, mention'd in those Pamphlets, were admitted to be true, and the Evidence clear and authentick; yet the Oaths being taken long after the Tryal, cannot affect the Cause; and tho they may asperse the pretended Criminal, yet can they neither justifie the Sentence, nor bar the Appeal, nor acquit the Judge.*

The PREFACE.

To publiſh the plain and direct Proofs, that occaſion'd a Sentence, is the proper and regular Method of maintaining and vindicating it; but new Depoſitions ſubſequent to the Tryal, and never produc'd in it, prove nothing but the diſingenuous Malice of the Adverſary, and the weakneſs of the Cauſe. However it will not be an eaſier Task to prove the impertinence and indecency of thoſe Accuſations, than the falſity of them too. The Witneſſes are ſo ſcandalous, the Depoſitions are ſo incoherent, the Proofs that confront them are ſo ſtrong, the Credit of the Suborner is ſo notorious; and in ſhort, the whole Method of the Contrivance will be ſo plainly detected, that none can be impos'd on by theſe Arts but ſuch whom their own Prejudices have made willing to be deceiv'd: For indeed we have happily to do with thoſe Enemies, whoſe Deſigns, however miſchievous, are equally weak, and that Innocence which is injur'd by their Malice, receives Protection from their Folly.

While this Matter between Dr. Bury *and Mr.* Colmar *was tranſacted in a private College, and the reports of it were not likely to exceed thoſe Bounds; A publick Vindication of Mr.* Colmar *was needleſs in that place where the known Characters of the Accuſer, and of the Party accus'd alike prevented Belief and ſupply'd an Apology. In that very College where the late Rector had by two Oaths been accus'd of Incontinence; none of the Fellows, tho obliged by Oath to the Diſcovery of ſuch a Crime, if true, ever charg'd Mr.* Colmar; *and in that Univerſity where the Rector after one Recantation, had been cenſur'd anew for notorious Hereſie. Mr.* Colmar

had

had within the ſpace of two Years receiv'd two Degrees, and with them neceſſarily a publick Approbation, as well of his Morals as his Ability. Thus far therefore the Scandals, while bounded within this Sphere, loſt their Venom and Force, and had no other effect than to ſhow the known falſity of the Author. But now when Dr. Bury *(who always wiſely appeals from thoſe Judges that know him) hath thought fit to expoſe theſe Scandals on a wider Stage, and hath endeavour'd by three printed Libels publickly to ſupport the Charge of Mr.* Colmars *Incontinence; He is concern'd to undeceive that happy part of the World, who are yet unacquainted with Dr.* Bury *and his Veracity.*

The falſity therefore of the whole Charge ſhall be ſhewn, and after the Proof of the Grievance, it will be an eaſie Task to ſhew the Juſtice of the Appeal. The little Objections that have been ſtarted in Law againſt it, ſhall be conſider'd; and when it ſhall appear, than an Appeal is not more warranted by Reaſon, than by the Rules of Common, Canon and Civil Law, and by the conſtant Practice of all Colleges, he muſt ſtill think that this his Act was as juſtifiable in it ſelf, as in the Conſequences of it, Meritorious. For ſince upon his Appeal, My Lord of Exeter *was occaſionally induced to know the many other Oppreſſions and Enormities in the College, and at laſt by a general Viſitation hath happily reform'd them; He cannot but amidſt theſe publick Calumnies be ſatisfied however, That at the hazard of his own Reputation, he hath in ſome Meaſure, and in a lower Sphere contributed to the freeing his own*

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private College from Incontinence, Bribery and Oppreſſion, and the whole Univerſity from Hereſie and Socinianiſm.

What Aſſiſtance Dr. Bury *us'd in thoſe three Pamphlets, and what Authors concurr'd with him therein, Mr.* Colmar *thinks it not worth while to enquire: The Matter was certainly taken from the Doctor himſelf; The Stile and Argument are ſuch as ſeem to come from the ſame Hand, and therefore the ſafeſt way is to give him the Honour of thoſe Productions, which he perhaps will not diſavow, and which, beyond Contradiction, no body elſe will Challenge.*

A VINDICATION OF Mr. *James Colmer*, &c.

THE Charge againſt Mr. *Colmer* is ſo heavy, and the Proofs of it in appearance ſo ſtrong, That many who were unacquainted with the Art and Method of the Subornation were ſo ſevere as to imagine, That during his Acquaintaince with Dr. *Bury*, he had learn'd to copy out his Pattern, and to reduce his avow'd Principles into Practice. He finds himſelf therefore under a double neceſſity both of clearing himſelf from thoſe groundleſs Scandals, which the late Rectors Malice had of late invented; and from thoſe *more juſt* Suſpitions, to which the ſame Mans former Intimacy with him had expos'd him. In the mean time He is not inſenſible that an eaſie Belief is naturally prepar'd for all *Slanders*; That the Impreſſions which they generally make, are deep; That the *Proof* of a *Negative*,

and the Diſcovery of a *ſecret* and *indirect Contrivance* is difficult; and therefore if the Evidence, which ſhall hereafter be produc'd in his Favour, were not very plain and direct, He could not hope to overcome thoſe ſettled and *laſting Prejudices*. Whoever is accus'd, is juſtly in *all Laws* entitled to favourable *Preſumptions* and *Allowances*; Thoſe Advantages as the *Guard* and *Refuge* of Innocence, have always been countenanc'd and admitted, and therefore if the *Informer* was Scandalous, the Information, tho it could not be confuted, found little Credit; if the *Witneſſes* were perjur'd, the Teſtimony, however true perhaps in it ſelf, was diſallow'd; if they had been tamper'd with, and *brib'd* into Evidence, the falſity of the Depoſition was ſuppos'd; if the *Affidavits* of the ſame Perſons were *contradictory* to each other, both of them have been juſtly rejected: And laſtly, Some Teſtimonies, however direct and poſitive, have been diſcredited nevertheleſs barely upon the *improbability of Circumſtances*, and *over-ballanc'd* ſometimes by the *known Reputation of* the Party accus'd. Now in this Caſe tho every one of theſe Methods hath ſometimes refuted an Accuſation, Mr. *Colmer* hath the concurrent Aſſiſtance of them *all*; his Defence therefore ſhall conſiſt of all thoſe Heads, by which it is poſſible to diſprove a Calumny, and firſt.

1. *The Credit of the Informer, and Perjury of the Witneſſes ſhall be examin'd.*
2. *The indirect Practices, by which the Evidence was obtain'd ſhall be expos'd.*

3. *The*

3. *The known Reputation of the Party accus'd, ſhall be fully made out and clear'd.*

4. *The falſity and improbability of the Depoſitions themſelves ſhall be prov'd.*

And when upon inquiry it ſhall appear, that an Accuſation of a Creditable Perſon, falſe and incoherent in it ſelf, hath been obtain'd by ill means, publiſh'd by a bad Man, and vouch'd by ſcandalous Witneſſes; Mr. *Colmer* doubts not that this Libel againſt him will in all Judicious Mens Opinion be thought as ill grounded as the Sentence.

It might be expected now, that Mr. *Colmer* ſhould give here an account of the Tryal, and diſtinguiſh the new and ſupplemental Teſtimonies from thoſe which occaſion'd the Sentence: Upon that view it would be eaſie to diſcern the riſe, progreſs, decay, and growth of the Evidence; how before the *Vice-Chancellor* (a proper and competent Judge) it was *unprepar'd*, *trivial* and *incoherent*; before the *Rector* himſelf where *no Oath* could be given, and where the Parties never appear'd, it was ſomewhat further *advanc'd* and *improv'd*; before the *Viſitor* and his *Commiſſary*, where Oaths might have been tender'd, and legal Examination of the Teſtimonies might have been obtain'd, it *fell* and wholly *diſappear'd*; but now at laſt when Judicial Proceedings were at an end, and Witneſſes could never be confronted, it is *reviv'd*, *dreſs'd up*, and *augmented*. This indeed would be a neceſſary Task as

well in reſpect of the *Viſion* as of the *Cauſe*; but it is already anticipated in the *Account of the Proceedings of the Biſhop of* Exeter, which is ſo *full* in that Particular, that it is not capable of addition, and ſo late, that it needs not be repeated. The faithfulneſs of that Relation is ſo exact, that it will evidently appear, that no one Paſſage of it, however immaterial after all the repeated Clamors of the *Criminals*, hath yet been refuted; and therefore upon a Compariſon of it with theſe Pamphlets, eſpecially the laſt, it will not be hard to obſerve the different Dates of the Evidence, and in ſome meaſure to diſcover the whole Method of the Subornation: By that means the Injuſtice of the Sentence will be detected; but it is my farther concern at preſent to ſhow the falſity of the Libel.

1. *Concerning the Credit of the* Informer, *and the Perjury of the* Witneſſes.

Mr. *Colmer* could wiſh that his own Vindication did not ſo far depend on the Proof of others Crimes, that he might act on the defenſive only, and clear himſelf without impeaching others. But when a Calumny is to be diſprov'd, it is neceſſary for Men to know the Character of the *Informer*, and of the *Witneſſes*: and therefore in this Caſe a true repreſentation of ill Men is not ſuggeſted by Malice, but Prudence; nor is a *Recrimination*, but a neceſſary *Defence*. As to the *Informer* then, Dr. *Bury*,

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it is not to be deny'd, I ſuppoſe, that he was upon two expreſs and direct Depoſitions judicially accus'd of Incontinence with his Servant; and that he was ſo conſcious of his Guilt in that, as well as other Particulars, that upon that account only he demurr'd to the *Juriſdiction* of a *known* and *lawful Judge*, becauſe he could not anſwer to the *Charge* before him. The *Affidavits* that were taken in the *Viſitation*, are here annex'd; The Exceptions againſt them ſhall be elſewhere clear'd and refuted; and upon the peruſal of the whole, it will be evident that the Puniſhment of Fornication was not ſo much heretofore the *Informers* Province, as the Practice of Adultery. Tho this Teſtimony voluntarily made by the Party her-ſelf upon Oath, be very ſtrong and convincing, tho the Circumſtances and Tokens which attend and confirm the Depoſition, be plain and undeniable; yet ought the *Affidavit* to have leſs weight, if he had formerly been free from the *imputation* of ſuch *Immoralities*. Much undoubtedly is to be allow'd to the Credit of the Perſon accus'd, and a tenderneſs is to be us'd in receiving, and in reporting an Accuſation; but when, as by the *following Oath*, he appears to have been always *reputed* a *notorious Adulterer*; when his Principles are ſuch as ſecond thoſe Reports, he cannot juſtly expect that Favour to which another Man of a different *Life*, and *Reputation* might be deſervedly entitled.

He may remember, I preſume, how oft in the hearing of his own Relations, and before Mr. *Colmer*, he hath declared, That the Word *Fornication* in the Bible was *Metaphorical*,

taphorical, and that nothing was forbidden by that Name but *Idolatry* and running after *ſtrange Gods*. He hath always expreſſed ſo great a tenderneſs for Husbands or Wives in the Caſe of Coldneſs, that the Latitude which he allow'd them therein, would in the Language of all other *Caſuiſts* be properly term'd the *groſſeſt Adultery*. He having often declar'd, that there was an Obligation in Juſtice to allow another to anſwer the ſame Expectation, which he could not ſatisfie himſelf. Other Expreſſions are not out of reſpect to him, but out of decency omitted, as being too groſs to bear Repetition. To repeat his other Crimes, his *Hereſie*, *Bribery* and *Extortion*, were to give the Hiſtory of his Life; but what is moſt to our purpoſe, his particular Talent in *Champerty* and *Maintenance*, his Intrigues with Witneſſes, and his artificial management of Evidence, need not be nicely inſiſted on here, as being this laſt Term ſufficiently diſcover'd and expos'd in *Chancery*. This is the *Accuſer* that promoted and carried on an Information of Incontinence, and the Inſtruments by which he compaſs'd his Deſigns, are of the ſame make and ſize. The whole material Evidence proceeds originally from *Anne Sparrow* and *Anne Aris*, and is reſolv'd into the Credit of their Teſtimony, ſo that if their Oaths can have little *weight*, the traditional reports, however authentically deriv'd from them, muſt have *leſs*. As to *Anne Sparrow* then, you may take her true Character from Dr. *Bury*'s own pen, who thus with his uſual Elegance, and with more than ordinary Truth in one of his *Papers* deſcribes her.

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Anne *was known to be ſcarce half-witted, and the Proverb which ſaith,* Children and Fools ſpeak Truth, *is to be underſtood of what they ſpeak of their own Accord; but when they are in other Folks Conduct, then they ſpeak as they are prompted.*

So that here the main Witneſs on whoſe looſe Expreſſions Mr. *Colmer* was expell'd; upon whoſe Teſtimony the Sentence is ſupported, is own'd and confeſs'd to be a Fool, Half-witted, very pliable to a Suborner, and eaſie to be drawn into Perjury. The other Witneſs *Anne Aris* was one that was expell'd the College by the late Rector; One that had caus'd the Expulſion of one Man, for this ſame Act of which ſhe now accuſes another: One that at her Delivery, and ever ſince had ſolemnly vow'd that *Smith* only was the Father of the Child, which now at the Rectors requeſt after more than a Years diſtance from the Death of it, ſhe charges on Mr. *Colmer*. Theſe are the two Witneſſes, who having before given contradictory Evidence, do at the ſame time ſwear Mr. *Colmer* Guilty, and themſelves once for-ſworn, and upon each of theſe ſingly depends a *Conviction*, and an *Expulſion*. If a Man would look back then on the Informer, and conſider the main Witneſſes, and the nature of the Cauſe, he could not reaſonably expect much Truth from any of them, but if he will look forward on the groſs, and apparent falſity of the Evidence it ſelf; he will find it ſuch, as not only *anſwers*, but *exceeds* his Expectation.

Of the Indirect Practices *by which the* Evidence *was obtain'd.*

The Servants of *Exeter* College purchaſe their Places at no eaſie Rate, and hold them upon very hard Terms: Some of 'em upon their Entrance were forc'd to furniſh the late Rector with Mony; others that could not purchaſe the ſame way, were oblig'd under the Penalty of a Forfeiture to ſupply him with Affidavits. When Mr. *Colmer* then had juſtly oppos'd the Rector in the Election of Mr. *Kingſton*; the Rector did upon that account declare that he would deny Mr. *Colmer* his Degree, and by Conſequence compaſs his Expulſion: This his reſolution he communicated to his Daughters in *Devon-ſhire*, and the Perſons are therefore named, becauſe Dr. *Bury* hath been pleas'd to deny the Matter of Fact.

Now in revenge of this Affront, and in purſuance of his Deſign he privately in his Cloſet perſwades *Smith* (one of his Dependants) to accuſe Mr. *Colmer*: There *Smith* (as by the Rectors own Confeſſion ſince appears) was threatned, till he wept, was frightned with the loſs of his Place, and the ruin of his Wife and his Family; and yet could by no proſpect either of Reward or puniſhment be brib'd or terrified into Perjury. *Thomaſin Smith* was the ſecond Witneſs, which the Rector labour'd to gain; and ſhe tho much tempted, was ſo far from confirming the Rectors Charge, that ſhe repeated *Anne Sparrows* Words; and wholly clear'd and acquitted Mr. *Colmer*. And it is to be noted,

noted, that *Ferdinand* and *Thomaſin* have ſworn in the *Vice-Chancellors Court* in the Cauſe between *Colmer* and *Crab*, expreſly contrary to what they are ſaid to confeſs in the late *Caſe*. This then was thought no Evidence before the *Vice-Chancellor*; but when Dr. *Bury* had adviſedly made himſelf Judge of the Cauſe; Equivocal Expreſſions were not only put to a ſtrein'd and foreign Interpretation, but were credited againſt the direct Oaths that were offer'd by the Authors of them. And tho doubtful Words from theſe two Perſons, ill conſtrued, and worſe atteſted were admitted as Evidence againſt Mr. *Colmer*; yet the *Affidavits* tender'd by the ſame Perſons at the *Tryal* in his behalf were ſuſpected, and refus'd: Thus the *Tryal* went on, and the Sentence paſs'd; but the Injuſtice of it was ſo viſible, and the ſcandal ſo great, that even the *Rector* himſelf without additional Evidence, could not ſupport the Infamy of it. When therefore his firſt Witneſſes being of a ſtubborn and inflexible *Honeſty*, could by no Threats or Arguments be induc'd to ſwear according to his Directions, nor to juſtifie his late Sentence; His next effort was made upon the pliable, half-witted *Anne Sparrow*, who according to his own Character of her was exactly fitted to *receive* any *Oath*, and to *vouch* it. Sir *Kingſton* then a known Agent of the *Rector*, and equally concern'd to be an Enemy of Mr. *Colmer*, goes to

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the Wench at *London*; and (as appears by *Affidavit*) perſwades her to charge Mr. *Colmer* with an Offence, of which ſhe had before upon Oath once, and before credible Witneſſes oftentimes acquitted him. The *Oath* then that was ready for her, was eaſily digeſted: She ſwore indeed that Mr. *Colmer* was concern'd with her; but it appears upon Oath that ſhe immediately afterwards declar'd to *Anne Pierce*, That ſhe ſwore only what Mr. *Kingſton* bad her. So that here a weak, ſilly and ſcandalous *Wench*, who was firſt tempted by *Eliz. Roberts*, and afterwards by Mr. *Kingſton* to accuſe an innocent Perſon, aſſoon as out of their Cuſtody, diſavows the Accuſation, acquits the Party, and diſcovers the Suborners: And when this Creature repeated in *Oxford* the like Oaths which ſhe made at *London*, it is obſervable, that tho ſhe had been known to be about the Town from *January* to *June*, yet ſhe was never examin'd till upon the return of Mr. *Kingſton* from *London*, ſhe was again under the ſame Perſons management, and more nearly ſubject to the Influences of the *Rector*; and therefore it is eaſie to imagine the Reaſon, why ſuch a ſenſeleſs proſtitute *Strumpet* was immediatly after all theſe Crimes and Perjuries entertain'd for three Weeks together by the late *Rector* in his Lodgings; and why, upon the taking that Depoſition, nothing however materially ſaid by the *Deponent*,

ponent, was inſerted into the Oath, which was not approv'd by Dr. *Bury*.

But there was a double Expulſion to be carried on, and therefore two Baſtards at leaſt to be found, and Mr. *Colmer* was to be intitled to them both. *Anne Aris* then Daughter to a Servant of the College, who had been long ſince expell'd, was now thought by the *Rector* a Perſon fit to be recall'd, examin'd and corrupted: Above a Year had now paſs'd ſince her Delivery; *Smith* had been accus'd by her as the Father of the Child, and was upon that Account already expell'd; yet now at this diſtance of time, ſhe is tempted to diſavow what in her Pains ſhe had ſolemnly declar'd; and to charge a new Man, Mr. *Colmer*. Her Mother *Buckland* had a dependance on the *Rector*, and had been as to her Employment in the College, for her ill Manners particularly diſoblig'd by Mr. *Colmer*, and upon his deſire, turn'd off by his Friends. And therefore it is not very probable, that a Man under Mr. *Colmer*'s Circumſtances already accus'd of, and expell'd for Incontinence, would have exaſperated this Woman, and turn'd her out of a conſiderable part of her Imployment, if he had been conſcious, as ſhe pretends, that ſhe could charge him with ſuch a *Crime*, and had ever been privy to any laſcivious *Intrigues*. This Woman then having been long and often diſcours'd by Dr.

Bury in his Dining-Room, at laſt revenges her ſelf on Mr. *Colmer*; ſecures her Intereſt with the Doctor, and tempts and perſwades her Daughter to forſwear her former Accuſation; and upon his Exigence to ſupply the late *Rector* with an *Affidavit*. The Wench then retracts what ſhe had before teſtifi'd; and upon theſe *Motives*, and upon theſe *Inſtigations*, accuſes Mr. *Colmer*; but immediately afterwards, (as *Anne Sparrow* had done before) She of her own accord proteſts againſt her own falſe Evidence, weeps at the mention of it; and (as appears by Oath) owns, that this *Story* was put into her Head, and that ſhe was *inveigled* to accuſe him. Theſe are the two Witneſſes, on whoſe Credit the whole Charge depends; and theſe are the Methods by which the Evidence was obtain'd; Such Agents were ſingled out as were known Dependents of Dr. *Bury*, and avow'd Enemies of Mr. *Colmer*; ſuch Witneſſes were choſen as confeſſedly had little claim to Common Senſe, and leſs to Honeſty; and yet Truth is ſo prevalent, and Perjury ſo hard to be conceal'd, that even theſe Witneſſes, under this Management, voluntarily diſcover'd the Contrivance, and became Witneſſes of that Subornation to which they were Parties.

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3. *The Credit of the* Perſon *accus'd.*

This Head might poſſibly be accus'd as *vain*, if the Malice of Mr. *Colmers* Adverſaries had not made it neceſſary. In one of the late *Libels* he hath been tax'd as a Perſon formerly guilty of *Immoralities*, tho upon enquiry it will appear that thoſe Accuſations are equally groundleſs, and far leſs plauſible than the preſent Charge. He was firſt elected into *Corpus Chriſti* College from *Exeter*, and was thence elected Fellow by thoſe of *Exeter*, and the Teſtimonials which he lately has receiv'd from all the Fellows of that College, then and now Reſident, ſufficiently ſhew what Opinion they formerly had, and ſtill retain of his *Morals* and *good Behaviour* amongſt them. The late concern of the Fellows of *Exeter* in his behalf, the diſmiſſion of the Cauſe by the *Vice-Chancellor*, and the Receipt of the Appeal by the Right Reverend *Viſitor* will ſufficiently ſhew that he is diſreſpected by none there, but Dr. *Bury* and his Confederates. And above all the reſt, there cannot be a clearer Inſtance of the good Opinion of the whole *Univerſity* than that without any contradiction, his Degree in Phyſick with a *Licentia Practicandi* was lately granted to him, and by conſequence his *Morals* were upon that ſtrict enquiry, fully

fully approv'd by the *Univerſity* in General, and by theſe of his own Profeſſion in particular. And therefore till Dr. *Bury* can equally approve himſelf to that Learned and Judicious *Body*, it is not to be doubted but that his *Calumnies* againſt him will be no more ſucceſsful in their effects, then they are true in themſelves.

4. *Of the Falſity and Improbability of the* Depoſitions *themſelves.*

The Artifice that was us'd in gaining the *Affidavits* of theſe ſenſeleſs Witneſſes, is an indirect Method at leaſt of producing Truth; but is a very baſe and ſcandalous way of promoting Falſhood. Men that have any Credit themſelves, are wont to look into the repute of their Evidence, and not upon the extorted Oaths of any proſtitute Wretch to frame, and dreſs up an Information. However, ſince Teſtimonies of ſuch Perſons are here produc'd; It is incumbent upon Me not only as I ſafely may to deny the whole Charge; but to confute the Evidence that ſupports it. Now certainly the Oath of *Anne Sparrow*, that clears Mr. *Colmer* will ballance the Oath of the ſame Perſon that charges him. If a *Teſtis Vacillans* is rejected in Law, much more a perjur'd Witneſs that ſwears counter to her ſelf, and falſifies

falſifies her own Depoſitions. If ſhe ſwore Truth before Alderman *Fifield*, Mr. *Colmer* is acquitted; and if ſhe then ſwore falſe, Mr. *Colmer* can never afterwards upon her Teſtimony be juſtly condemn'd.

A contradictory Oath can mean nothing, it affirms a Crime, and denies it; it takes off its own Load, and therefore when there is no Charge remaining, all Laws allow an Acquittal. If *Aris* had only to do with *Smith*, as ſhe ſwore at her Delivery Mr. *Colmer* cannot be joynt Father of the Child, as at ſo great a diſtance ſhe atteſted. The Queſtion only then is which *Anne Aris* is to belive'd, whether ſhe in her Pains, and in all probability at no great diſtance from Death, or whether we muſt credit her ſixteen Months afterwards purſuing her Mothers Revenge, and acted by the Influence of the *Rector*. For the Indemnity of a Pariſh indeed great Liberties are and ought to be allow'd, and that Evidence will charge a putative Father before a Juſtice, that will not in the *Spiritual Court* convict an Adulterer. And in this Caſe not only a Mans Reputation lies at Stake, but his Civil Intereſt is in danger; Continence is the *Condition* of his *Free-hold*, and therefore ſlight and trivial Proofs, much leſs none, ought not to diveſt him of it. It being clear then, that the Witneſſes have ſworn againſt themſelves,

ſelves, Mr. *Colmers* Innocence is juſtified by the ſame *Affidavits* by which it is pretended to be impeach'd. However it is neceſſary to purſue the Evidence, and to diſcover probably therein no Footſteps of Incontinence, but very viſible Marks of Subornation: For ſince the *Perjury* of *both* the *Witneſſes* is *plain*, and ſince it is probable that they were ſeduc'd and inveigled into contradictory Oaths, the only doubt that remains is on whom muſt fall the Guilt of ſuborning them. The late *Rector* pretends to accuſe Mr. *Maundrel*, and Mr. *Cleaveland*, but nothing is brought to ſupport the Charge, but one of *Anne Sparrow*'s ſayings, and one of them too (ſuch as they are) we have againſt Mr. *Kingſton*. Now in ſuch a Perplexity as this is, when Men have deſignedly endeavour'd to promote Perjury; the things themſelves well weigh'd, the Circumſtances examin'd, and the *Character* of the *Perſons* concern'd are in all probability the *Guides* that will let us into the *Truth* of the *Cauſe*. Mr. *Cleaveland* then, and Mr. *Maundrel* both Maſters of Arts, and both in Orders, are Men of unſpotted and clear Reputation, and who are ready upon Oath to deny and diſavow the Charge. The late *Rector* (as the Court of Chancery well knows) is not unpractis'd in Evidencing; and his Aſſociate Mr. *Kingſton* is regiſtred in Mr. *Dangerfield*'s Diary, as one of his ſingular Friends and Companions. I ſhall not therefore much inſiſt on the Oaths of the

two

two Witneſſes that ſwear; that they were ſeduc'd and inviegl'd into the Accuſation of Mr. *Colmer*; tho even theſe too are wholly rely'd on by thoſe that want better Evidence: But I ſhall rely on the whole Management of the Deſign, which, if taken together and ſeen at one view, diſcovers *it ſelf*. The late Rector *himſelf* own'd, in the firſt Paper by him publiſh'd, that he Cloſeted the meaneſt Servants of his College; that he beat them out of *their Sayings*; that he *labour'd* for Oaths, and laſtly that he turn'd one of them out of her Place, becauſe her Husband would not ſwear againſt Mr. *Colmer*. Did he not expel Mr. *Colmer* afterwards, upon the conſtructive Evidence of *Winks* and *Smiles*, without one Witneſs ſworn or unſworn of his own knowledg to any one concludent Circumſtance? And why ſhould we think this Evidence leſs true than the ſupplemental; or that a Man us'd leſs indirect practice in furniſhing out a *Libel*, than in dreſſing up an *Accuſation*? In ſhort then, a ſenſleſs Wench, who within the Year had liv'd privately with the Rector in his Lodgings, was deliver'd of a Baſtard; and therefore for the *Rector's* Reputation more than the *College's*, it was neceſſary that a Father ſhould be procured for it. The pretended Affronts that he had receiv'd, aggravated by the former Intimacy, inclin'd him to make choice of Mr. *Colmer*. What Arts he then made uſe of to gain Witneſſes, and

 after-

afterwards to expel him without any, is already known, and truly related; Since that time, when Mr. *Colmar* desir'd nothing more, than an opportunity of confronting those Witnesses (that were said to swear against him) and of hearing their Examination; all Opportunities of so fair a Tryal, either before the *Vice-Chancellor*, the *Visitor*, or his *Commissary*, have been deny'd him. If these Witnesses had then appear'd, and the Testimony that is printed could not have been evidently confuted, Mr. *Colmer* must have submitted to the Sentence; and this had been a clear way of acquitting Dr. *Bury*, but a dangerous one too, and such an one as might have opened the Contrivance. The safest Method then was not to print the Evidence taken at the Tryal (for there was none, or such as amounted to nothing), but to publish some supplemental Affidavits, false in themselves, *indirectly* and *secretly* obtain'd, and which possibly with some Men might be thought the *grounds* of the Sentence, tho in truth they were taken long after it.

I have examined however even those surreptitious Depositions, most of them have been prov'd false already, and the rest are of the same stamp. *Alice Gigger* boasts in Print, that Mr. *Colmer* offer'd to maintain her as a Gentlewoman, if she would ride with him to *Hinksey*; but that she refus'd his Offers.

fers. If this Oath had been as *moſt* of the reſt, *without Time*, *Place*, and *Circumſtance*, it might have been better ſecur'd from the danger of Confutation. But now ſince this *Alice Gigger* hath unadviſedly ventur'd upon two Circumſtances that were deſign'd, if true, to make the Information credible, they muſt equally, if notoriouſly falſe, diſprove her Depoſition. The place where Mr. *Colmer*'s Horſe is ſaid to ſtand, was Mr. *Crowder*'s in *Holy-Well*; but it is proved upon Oath, that Mr. *Colmer* had no Horſe there, and conſequently, that the Affidavit is groundleſs. The Wench farther ſwears, That ſhe received a Letter from her Brother, by which ſhe was deſired not to accuſe Mr. *Colmer*; but the ſame Brother ſwears that ſhe muſt *then* receive that from him which he never ſent; that he is wholly a Stranger to the Contents of it, and never was deſir'd to write, nor ever actually did write any thing concerning Mr. *Colmer*. As to the Depoſition of *Lawrence* of a Violence in vain offer'd her ſeven Years ſince: Dr. *Bury* own'd at the meeting, and ſince, that the ſaid *Lawrence* refus'd to accuſe Mr. *Colmer*; but upon condition ſhe ſhould not be produc'd to teſtifie it to his *face*. The Perſon to whom ſhe was ſaid to complain of Mr. *Colmer*'s Rudeneſs was her *Dame*, (who was preſent, and diſownd it) but in her *Affidavit* 'tis the *Dames* Mo-

ther (who hath been dead about ſix Years). Beſides, the place where this Depoſition was taken, renders it ſuſpicious (as appears by what's already ſaid), eſpecially ſince the Witneſs declin'd Swearing in the *Vice-Chancellor*'s Court afterward, where ſhe might have been Counter-examin'd. *Freek* and *Clafe* teſtifie from *Ann Aris*; that ſhe always utterly refus'd Mr. *Colmer*'s rude Offers: But ſhe ſwears, That before that time ſhe had comply'd with them. The *whole Charge* then being thus clearly anſwer'd, I ſhall trouble the Reader but with one Obſervation more, which may be now at laſt unneceſſary perhaps, but is not otherwiſe immaterial: When the Rector at the Tryal endeavour'd to procure Witneſſes; *Joyce Aris*, who had been expell'd the College for Lying, eaſily comply'd with his requeſt, and was brought as one of his main Evidence againſt Mr. *Colmer*. Trivial Paſſages and Speeches of *Ann Sparrow*, ſhe at that time repeats, and is very earneſt and violent (as far as her Capacity ſerved) in accuſing him, but mentions nothing in the mean time of the plain and groſs Incontinence of Mr. *Colmer*, to which, ſome Months afterwards, ſhe ſwears her ſelf privy. Now *ſince* here was no kindneſs for Mr. *Colmer* (for ſhe was now a voluntary and warm Witneſs againſt him) *ſince* there could be no danger to any other Party by the Diſcovery (for the Offence of the Woman was *known*, the Child

Child *dead*, and the pretended Adulterer *expell'd*); can any reaſon be aſſign'd, why a paſſionate Witneſs ſhould inſiſt upon, and urge, and improve an idle frivolous Story againſt a pretended Criminal, and omit a plain and direct Proof of his Guilt; to which ſhe now pretends *before that time* to have been conſcious. It is clear then that ſhe was ignorant of any ſuch Crime *now*, but was in time taught to *know backwards*, and to *antedate* that Oath which ſhe afterwards *learnt*.

And what more in ſuch a Caſe can be hop'd for, to clear an *innocent Perſon* from the malicious Slanders of a revengeful Libeller? The Perſon accus'd a Man of *known Reputation*, the *Informer* and *Agents infamous*; ſome of the Witneſſes *disoblig'd* and *malicious*; another *ſenſleſs* and *half witted*; all contradicting themſelves and *evidently forſworn*; *Threats* uſed to frighten others into the like *Information*; *Places* taken away from thoſe that declin'd the *Perjury*; no Oath judicially taken, but all in the abſence of the Party, after the Sentence, *ſurreptitiouſly* obtain'd; the whole Contrivance manag'd by a Man of *known Incontinence* upon his own account, for diſcharging himſelf of a groſs and notorious Crime, and carried on by the *extorted Oaths* of his own proſtitute *Servants*, *Creatures*, and *Dependents*.

Mr. *Colmer*

Mr. *Colmer* therefore, after this clear Vindication, may juſtly lay claim to the *common Juſtice*, and to the *good Opinion* of Mankind. Where he is known in the Univerſity, and among thoſe of his own Profeſſion, theſe Scandals already have found no Credit; and he hopes that, if at a greater diſtance any will concern themſelves to know his *Charge*, they will be ſo impartial likewiſe, as to conſider his *Defence*. Mr. *Colmer*'s Reputation was always more valuable to him than his Fellowſhip. If he had been guilty of the Crime, he would never, upon an Appeal, have enhanc'd his own Puniſhment, ſince it is plain, that upon proof of the Charge, the Loſs would have been no *leſs*, and the Ignominy much *greater*. He hath deſired nothing hitherto but a Tryal, and would willingly have ſubmitted to the deciſion of any *Judge*, but ſuch an one who is likewiſe a *Witneſs* and *Accuſer*, and who purſu'd his own *Intereſt* as well as *Revenge* in his Conviction. It is not to be thought, therefore ſince nothing is judicially proved againſt Mr. *Colmer*, that this *Subornation*, ſo plainly made out, will be aſſiſted and ſeconded by other Mens ſecret Jealouſies and Suſpicions, eſpecially ſince it is utterly impoſſible, upon the return of the like Contrivance; for the chaſteſt Man in the World to clear himſelf, and by *any other Methods* to juſtifie his *Innocence*.

'Tis

'Tis true, I confeſs that much Truſt is, and generally may be repos'd in thoſe worthy *Heads* of Colleges, which now are, and uſually have been in *Oxford*, and the *known Credit* of thoſe *Governors* is that which chiefly *oppreſſes* Mr. *Colmer*. But Men ought to conſider again, that whatever his Character hath been, no Man hath taken more care to diſgrace it; and that ſince the Foundation of the *Univerſity* Dr. *Bury* is the *firſt* Man, who hath receiv'd ſo great and ſo juſt a Puniſhment from the Right Reverend his *Viſitor*, and hath at the ſame time incurr'd the Cenſure of the *whole Univerſity*.

OF

OF

Mr. Colmer's

APPEAL.

THE Liberty of Appeal was ſo clearly and ſo fully prov'd in the *Account of the Biſhop of* Exeter's *Proceedings*, that little can be added to thoſe *Arguments*, and leſs need be ſaid in the *juſtification* of them. But ſince the ſame Libel that charg'd *Fornication* upon Mr. *Colmer*, doth equally accuſe him of *Perjury*, he is concern'd to ſhow, that the reaſoning of that Pamphlet is in one Caſe as weak as the Allegations are *falſe* in the *other*. The Author of the *Account* will ſufficiently anſwer his *other* Exceptions; but theſe

theſe, as caſting a Perſonal Reflection on Mr. *Colmer* ſhall *here* be conſider'd and refuted. In this Caſe there neither is, nor never was any Diſpute, but that Mr. *Colmer* is within the reach of the Local Statutes of the College, and ſubject to Expulſion; but the Queſtion is only whether he was lawfully convict of Incontinence according to the Direction and Appointment of the Statute: and whether after ſuch Conviction, he had liberty of appeal.

The Reaſons that are given againſt Mr. *Colmer*'s Liberty of Appealing are three.

1. *Becauſe there never was an Appeal in this College, and therefore the* Non-uſer *is a preſumptive Proof of the unlawfulneſs of it.*
2. *Becauſe the Fellows themſelves have by Oath diſclaim'd any Right of appealing.*
3. *Becauſe the Rector when Expell'd, is expreſly by Statute bar'd from Appeal; and conſequently the Fellow's have not greater Allowances upon their Expulſion than the Rector.*

Theſe indeed which would be plauſible Arguments againſt an Appeal, if true, muſt be equally ſtrong for it, if falſe, and thereupon it ſhall be prov'd.

1. *That Appeals have always been made to their reſpective Viſitors from all Colleges in general, and from* Exeter *in particular.*
2. *That the Fellows are not by Oath barr'd from Appeals to the Viſitor.*
3. *That the Rector hath the ſame, and is deſign'd to have no other Liberty than the Fellows.*

Firſt, Then it is allow'd that Laws are to be expounded by *uſage*, and tho it is not true, yet it need not be denied, that Statutes can be cancell'd by *deſuetude*. Men when aggriev'd have naturally recourſe to all legal Remedies; and therefore where an Action hath never been brought, it is a reaſonable Preſumption that it doth not lie. Now then, if *Non-uſer* would have been ſo good an *Interpreter* of the Law, *Cuſtom* is no worſe an *Expoſitor*; and therefore the *conſtant Succeſſion* of *Appeals* in like Caſes in this and other Colleges is as ſtrong an Argument for us, as the *diſcontinuance* of them might have been againſt us: Nothing then but groſs Ignorance of all Proceedings in Colleges could have betray'd a Man in to an Argument, which might ſo eaſily and ſo ſtrongly be retorted. Even this late *Rector* himſelf hath made an Appeal to the *Viſitor*, Dr. *Ward* Biſhop of *Exeter*, and brought the Opinion of Councellor *Glanvile* (which I have ſeen) to prove the legality of it. The Caſe of *Goddard* V. *Hide*, *Mich.*

Mich. 10. *Car.* 1. is ſo Famous an Inſtance as at once demonſtrates the Matter of Fact, and juſtifies the neceſſity of an *Appeal*.

A Fellowſhip fell void in *Exeter* College in *Oxon*, to which none were intituled but ſuch as were born within the Dioceſs of *Sarum*: One *Hide* that ſtood Candidate for the place with *Goddard*, procur'd a falſe Certificate from a *ſenſeleſs half-witted* Midwife, purporting that *Goddard* was born at *Eaſtwoodhay* within the Dioceſs of *Winton*. The Rector upon this falſe Certificate declar'd *Goddard* incapable, and *Hyde* choſen, and expell'd ten of the Fellows who gave their Voices for the Election of *Goddard*. The Fellows upon this grievance *Appeal* to the Biſhop of *Exeter* their Viſitor, and upon enquiry it appear'd that the Certificate was *falſe*, and the *expell'd* Fellows were by his Sentence juſtly *reſtor'd*. Afterwards upon an Information above, the Matter was further examin'd, the Parties that were Inſtrumental in gaining the falſe Certificate were fin'd, and the Rector receiv'd a publick reprehenſion for giving credit to the Certificate, and for expelling the Fellows. 'Tis here clear that the Fellows appeal'd from an unjuſt Sentence of the Rector, and 'tis as evident that without liberty of *Appealing* there muſt in this, as in many other Caſes, a way have been open'd to the greateſt and moſt unwarrantableſt *Oppreſſions*.

And therefore in all other Colleges where the Viſitor is ſubject to like or greater Reſtrictions, and the Fellows are under Obligations of the ſame Oath, all *other* Appeals have always been diſallow'd, and thoſe to the Viſitor always admitted. In the Statutes of *Corp. Ch. Coll. Trin. Coll.* and *All-Souls* Statutes the Oaths are as ſtrong, the Viſitor as to this reſpect is as much reſtrain'd, and yet Appeals have ſtill been as frequent as Grievances.

Now when Appeals always in all Colleges, and particularly in *Exeter*, have been made to the Viſitor, we may reflect on the knowledge of a Man who childiſhly declaims upon Deſuetude, and hath wrote out part of a Common Place Book concerning the force of *Non-uſer*.

2. If Cuſtom then, and ſubſequent uſage can explain a Statute; the Oath of the Fellow doth not bar the Appeal to the Viſitor. The Oath undoubtedly hath its force, and ſecures the College from any Suit at Law; or any diſturbance from abroad, but never was intended to bar the Members of it from a Recourſe to the *Patron* and *Conſervator* of the College.

All

All thoſe Applications *ad Prælatos, Proceres, Magiates*, which are expreſly forbidden, explain the general Words, and put a reſtriction upon them. A Viſitor who is the *Repreſentative* of the Founder, is entruſted with the Care and Government of the College, and an *Appeal* to him is the proper Method of preſerving the Peace of it, and of *redreſſing* the private Grievances, not of *promoting* them. The *Canoniſts*, that allow great Liberties of Appealing, even after Renunciation, except ſometimes the Caſe of *Monaſteries* and *Religious Societies*. But even *there* an Appeall to the *Supreme Abbot*, or to the *Principal of the Order*, was never diſputed, but eſteemed no other than it really is, a private recourſe to a *proper* and to a *domeſtick Forum*. Now then, *univerſal Authority* is lodg'd in the Viſitor by Statute, and is caſt upon him by *Law*: And it is abſurd to imagin, that an Oath of a Fellow in *general* Words, either can or was ever deſign'd to diveſt him of that Power, without *naming* him. And therefore, after the Practice of all Colleges, thus plainly prov'd, which is a ſufficient *Interpretation* of the Senſe of the Statute, I inſiſt on this *undeniable Argument*, That if the Founder had deſign'd to bar the Viſitor, he would in the particular Recital which

he

he there makes, at least *once* have mention'd him; he would in the Statute about the Expulsion of Fellows, have inserted *Appellatione remotâ*; he would have been as expres in taking away the Visitor's Authority, as he was in conferring it *upon* him.

3. This Author of the Case insists, that the Rector should have the same Allowances upon his Expulsion as the Fellows, and the like liberty of Appeal; if he would read the Statute, he might find, that the Rector *wants* not the same Right, that he hath an Appeal *to* the Visitor; but neither they nor he have any *from* him. The Rector may be expell'd by the Bishops Commissary; and then the Statutes sufficiently warrant a farther recourse to the Bishop of *Exeter* himself. For it is the whole Design and Intendment of all the Statutes to have Members of the College concluded by no other Sentence than that of the Visitor. And therefore when a Fellow is expell'd by the Rector, or the Rector by the Commissary, the Statute doth never bar an Appeal; because *one* might be made to the Visitor; but when the Rector is remov'd by the Visitor himself, then, and *then only* is said *Cessantibus appellationis remediis.* And therefore as it is very plain

plain that Mr. *Colmer* hath purſu'd the direction of the Statutes; ſo in Dr. *Bury's* Appeal it is equally clear that he is guilty of Perjury by breaking them. Theſe are the *Statutes* that *lead* the *Oath*, and that beſt *expound* it. The *Oath* is deſign'd ſummarily to *repeat* what the Statutes at large *explain*. The *local* Laws are not *enlarg'd* by it, but *enforc'd*. The ſtricteſt Obligation to the *Statutes* ariſes from the *Oath*, and the beſt *Interpretation* of the *Oath* is to be drawn from the *Statutes*.

By this you may ſee the Weakneſs of *Exeter Caſe*, and the Falſhood of it is, I ſuppoſe, already notorious. One thing more may be added; That whatever could not be *prov'd* by ſurreptitious Oaths, is ſaid to be *own'd* by Mr. *Colmer*; and a bold aſſertion of a Lye ſupplies the want of Evidence. Every one of thoſe Conceſſions are diſallow'd, and might be eaſily diſprov'd, did I think, when their *Affidavits* are ſo falſe, any Credit would be given to their bare *Allegations*.

It is an incumbent Duty upon every honeſt Man to defend himſelf from Oppreſſion and Calumny. The *Appeal* hath *righted* Mr. *Colmer* from the

the one, and this *Vindication* will *free* him from the other, especially, when it is evident, that after all their Arts and Forgeries, the *Libel* is as *weak* and *false*, as the *Sentence* was *illegal* and *unjust*.

THE

ERRATA.

For *Colmar* read *Colmer*, p. 17. l. 13. *dele* afterwards.

THE COPIES OF THE AFFIDAVITS, BY WHICH Mr. *COLMER* is plainly clear'd FROM THE Charge of INCONTINENCE.

The Examination of Mrs Anne Fidler *taken the* 14*th of* January *before Sir* William Walker *upon Oath* Anno 16$\frac{82}{90}$. *whereby Mr.* Colmar *is clearly acquitted.*

THE Examinant saith, That she was sent for to Goody *Bucklands* House, to deliver her Daughter *Anne Aris*, whom she did examine who was the Father of the Child that she then went withal, and bid her upon her Salvation, and as she would answer it to Almighty God, since she did not know whether she would Live or Dye, speak the Truth and wrong no Body, and in the extremity of her Pains which were very great, she put the

Queſtion to her twice, who was the Father of the Child; ſhe anſwered *Ferdinando Smith*, and being asked whether any one elſe had to do with her, ſhe anſwered none but him.

The Sign of *Anne* A. *Fidler.*

Mrs. *Banniſter* who was preſent at her Delivery, depoſeth upon Oath, that ſhe heard *Anne Aris* make theſe Anſwers above written, mentioned to Mrs. *Fidlers* Queſtions.

Mary Banniſter.

25 *July* 1690.

WHich Day appeared perſonally *Mary Herne*, Wife of *William Herne* of the Pariſh of St. *Michael* in the City of *Oxford* Labourer, and declareth that She was preſent at the Labour of *Anne Aris*, who was delivered of a Baſtard Child, and ſhe did then declare upon her Salvation, that no body had to doe with her but *Ferdinando Smith*, and that he was the Father of the Child, which ſhe ſo declared upon the Midwifes three times preſſing her to ſpeak the Truth, and not to wrong any Gentleman, there being then preſent *Marian Holton*, the Wife of *James Holton* of the ſame Pariſh.

Eodem die D. *Maria Herne* jurat' fuit coram Domino Epiſ.

Mary Herne.

Eodem die.

WHich Day appeared perſonally *Marian Holton*, Wife of *James Holton* of the Pariſh of St. *Michael* aforeſaid Labourer, and declared that ſhe was preſent at the Labour of *Ann Aires* who was delivered of a Baſtard Child, and being then twice preſſed by the Midwife, to declare who was the Father of the ſaid Baſtard Child, declared that *Ferdinando Smith* the Elder was the Father of the ſaid Child, and that no body elſe had to doe with her, there being then preſent *Mary Herne* aforeſaid.

Eodem die jurat' cor' Domino Epiſ.

Marian Holton.

The

The Depoſition of Margaret Trendal *of* Oxford *Spinſter.*

THis Deponent ſaith, That ſome time after *Anne Aris* had ſworn before Sir *William Walker* againſt Mr. *Colmer* of *Exeter* College, ſhe this Deponent ask'd why ſhe had not accuſed Mr. *Colmer* before, to which ſhe anſwer'd, that it was never in her Head.

The Mark of *Margaret* ℔ *Trendal.*

The Depoſition of Giles Cooke *of* Oxford *Tobacco-pipe-Maker.*

THis Deponent ſaith, That *Anne Aris* being asked in his hearing why ſhe accuſed Mr. *Colmer*, anſwer'd ſhe was inveigled to do it.

The Mark of *Giles* ● *Cooke.*

The Depoſition of Edward Brickland *of* Oxford *Apothecary.*

THis Deponent ſaith, That he was preſent when *Anne Aris* ſaid ſhe was inveigled to accuſe Mr. *Colmer*, and that he heard her ſay ſo, and weep at the ſame time.

The Depoſition of Griſwell Maſon *Wife of* John Maſon *Fuller in* Oxford.

THis Deponent ſaith, That *Anne Aris* ſometime after her being deliver'd of a Baſtard Child on New-Years-Day became Servant to her this Deponent, and liv'd with her ſeveral Months, and that during that time this Deponent ſeveral times preſſed the ſaid *Anne Aris* to confeſs the Truth concerning the Father of the ſaid Baſtard Child, becauſe *Ferdinando Smith* had complain'd he was injured by her, and that ſhe the ſaid *Anne Aris* did always tell this Deponent that no one was the Father of her Child, or ever had to do with her but the ſaid *Ferdinando Smith.* This Depo-

nent likewiſe ſaith, That ſhe ſeveral times told the ſaid *Anne Arit* that ſhe was accus'd of lying with ſome Boys of the Town, and that if it were true ſhe ſhould confeſs it, and repent of it; but the ſaid *Anne Aris* always ſaid to her with Tears in her Eyes, that it was not true, for that none but the ſaid *Smith* ever had to do with her.

The Mark of *Griſwel* □ *Maſon.*

These four Depoſitions of *Margaret Trendal, Giles Cooke, Edward Brickland* and *Griſwell Maſon* were taken upon Oath the 31ſt of *Jan.* $16\frac{90}{91}$. before me

Edw. Combes.

The Certificate of Edw. Strickland.

See the Account examin'd p. 27.

THeſe are to certifie that in the Depoſition which I made before Sir *William Walker September* 18th 1690. I deſcribed the Young Man there mention'd by ſaying he was a ſhort Commoner in a Peruque disfigured by the Small Pox. Witneſs my Hand this 31ſt of *March* 1691.

Edw. Strickland.

Affidavits *whereby Mr.* Colmer *is acquitted from* Incontinence *with* Ann Sparrow

The Certificate and Depoſition of Alderman Fifield *concerning the Examination of* Anne Sparrow *taken before him* Oct. 29. 1689.

THeſe are to Certifie whom it may concern, That *Ann Sparrow* having been deliver'd of a Baſtard Child, I being a Juſtice of Peace was deſir'd to examine the ſaid *Ann Sparrow* upon her Oath, which I did do accordingly upon the 21 day of this preſent *October* 1689. the ſaid *Ann Sparrow* did then declare upon the Oath that ſhe took, that Mr. *James Colmer* of *Exeter* College was not the Father of the ſaid Baſtard Child, and did alſo then upon her Oath declare that the ſaid Mr. *Colmer* never had to do with her, and that his name was put into her Mouth by one Goodwife *Roberts*. Witneſs my Hand,

Oct. 29. 89. *Thomas Fifield.*

Compare this Certificate with the *Caſe related* p. 6. where it is confidently and falſly averr'd, that ſhe was not upon Oath for any thing that appears upon the Aldermans Certificate.

Viceſimo quinto die Martii Anno Dom. 1690.

MEmorandum, This day *Tho. Fifield* Alderman of the City of *Oxford*, and one of their Majeſties Juſtices of the Peace of that City, made Oath before the Right Worſhipful Dr. *Edward Maſters* Dr. of *Laws*, and Commiſſary to the Right Reverend Father in God *Jonathan* by Divine permiſſion Lord Biſhop of *Exon*

Exon, Patron and Visitor, Ordinary of the College of *Exon* in the University of *Oxon*, That the Certificate hereunto annexed is all of this Deponent's own Hand Writing, and that the Contents thereof were and are true, and were so done as is there set down and expressed.

Tho. Fifield.

Jurat' Coram me *Edw. Master* Commiss. Ach. in præsentia mea *Jo. Greeneway*, Not' Pub' & Reg' assumpt'.

Mr. Walter Fifields *Certificate.*

ON the 5th of *May* last about 9 at night, I was returning home to *Trinity* College from my Father's, Alderman *Fifields*; and being informed at the *Turle* by a Neighbour of Sir *William Walker*'s that something was under Examination before him, that concern'd my Father's Reputation (my Father being at that time very ill of a Sickness, of which within six days after he departed this Life) I went to Sir *William* and desired admission, which being easily granted, I found there Dr. *Bury*, Mr. *Crabb*, and Sir *Kingston*, and a foolish Wench who own'd her self to be *Ann Sparrow*, then under Examination about a Bastard Child, concerning which she had been examin'd before my Father upon Oath some Months before; but Dr. *Bury* having asserted the contrary in Print, I desired some Questions might be put to her concerning her former Examination: when on a sudden I found Dr. *Hern*, and Mr. *Vermin* in the room (sent for, as I suppose, by Sir *Kingston*) besides a great Crowd pressing in. I desired leave of Sir *William* to send for a Friend, and by his Permission sent for Alderman *Townsend*, who being come, took the Wench away from the Crowd into another Room, and propos'd in my hearing some Questions to her, about her having acquitted Mr. *Colmer* upon her Oath before my Father. She declar'd at the same time that she did not Swear before Alderman *Fifield*, but being asked whether there were any Book, and whether she laid her Hand upon it, she answer'd to both Questions, Yes. This I desir'd urgently might be inserted in her Deposition

poſition, but both Sir *William* and the Alderman put me off, ſaying, There was no need of it, for that ſhe had given ſufficient ſatisfaction that ſhe was ſworn before my Father, and that they being Witneſſes, their Teſtimony was as good or better than her Depoſition. Given under my Hand the 8th day of *April*, *Anno Dom'* 1691.

Walter Fiſield.

The Day and Year above written, Mr. *Fiſield* came before me, one of their Majeſties Juſtices of the Peace for the City of *Oxon*, and took his voluntary Oath, that the aforeſaid Certificate is the Truth.

Tho. Hunſdon.

The Subſtance of Anne Pierces *Depoſition taken* 28 Jan. 1689.

Anne Pierce depoſeth, That Mr. *Kingſton* came to *Anne Sparrow* in her Houſe, and was privately with her for a conſiderable time, and that ſoon after the ſaid *Anne Sparrow* made Oath before a Juſtice of Peace: And that afterwards this Deponent ſaw the ſaid *Anne* in *Bridewell*, and ask'd her why ſhe did accuſe and wrong a Gentleman before the Juſtice; to which the ſaid *Anne* reply'd, That ſhe had ſworn only what Mr. *Kingſton* bad her.

Anne Pierce.

The Character of the Informer *as to Bribery and Hereſie ſufficiently appears in the* Account. *But as to Incontinence the* Affidavits *that were made in the Viſitation, are here made publick.*

24 *Die Julii*, 1690.

Mary Smith Spinſter does declare, and will be ready to prove, That about the beginning of *November* 1688. ſhe was Servant to Dr. *Arthur Bury* at *Exeter* College, and continued in his Sirvice till about the end of *January* following, during which time the ſaid Dr. *Bury*, viz. The ſecond Night after her coming, came into the Bed to this Informant, and one Mrs. *Grace*

Weeks

Weeks then and now living in the Houſe with Dr. *Bury*, whom ſhe this Informant preſently awaked, and the ſaid *Grace Weeks* did ſeveral times ſtrike the ſaid Doctor, and forced him to leave the Bed for that time. And the next day Dr. *Bury* asked this Informant very angryly why ſhe made ſuch a Buſſle and waked *Grace Weeks*.

And this Informant further declares, That afterwards the ſaid Dr. *Bury* took away the Keys of the Doors betwixt the lodging Chamber of the Doctor, and the Room where this Informant and the ſaid *Grace Weeks* lodged; and ſeveral Nights after the ſaid Doctor came in his Shirt to this Informants Bed, and came into the Bed to her and the ſaid *Grace Weeks*, and to the beſt of her remembrance came in like manner to her Bed almoſt every Night during her ſtay in the Houſe, and was angry with her for not lying on that ſide of the Bed as he uſed to come to, as he had directed her; and when he was in Bed with this Informant, he bid her lie ſtill, and ſeveral times attempted her Chaſtity; and when no Perſon was in the Lodgings but the Doctor and this Informant, he called this Informant to him, and asked her ſeveral filthy Queſtions which ſhe will be ready to ſet forth when ſhe ſhall be called to prove the ſame. And this Informant ſaith, That about a Moneth after the ſaid beginning of *November*, the ſaid *Grace Weeks* was ſent away to board in the Town; after which the ſaid Doctor uſually came to this Informants Bed in his Shirt, at Night, and deſired to lie with her, having taken away the Key of this Informants Chamber-Door; and this Informant did put Chairs in the way to hinder him from coming to her Bed, and ſtook Pins in the Bed, and in the way to it whilſt the ſaid *Grace Weeks* lay with this Informant; and one Night in his coming to her Bed after the removeal of *Grace Weeks*, he broke his Shin with the Frame of a Chair which ſhe laid in his way, which the next Night he ſhewed to this Informant when ſhe was warming his Bed, and then ſhewed her a Mole on the ſide of his Foot, which he told this Informant no one ever did ſee before, unleſs his Mother or his Nurſe. And further ſaith, That the Doctor wiſhed her to lie ſtill in the Bed, and not to fear, for none

none that had skill would ever get Children, and told her that if ſhe would yield to him, ſhe ſhould have what ſhe would; but ſhe refuſing him, aroſe out of her Bed and dreſſed her ſelf, and ſet up the reſt of the Night, and the next day, which was the day before he went into *Devonſhire*, he threw the Key of this Informants Chamber to her, and told her that if ſhe was afraid, ſhe might lock her ſelf in.

Eodem die Jurat' cor' Dom' Epiſ. *Mary Smith.*

Note, That the Circumſtance of ſticking Pins was own'd to be true, ſometime after this Depoſition was made by Mrs. *Bury* and Mrs. *Guiſe* to one of the Senior Fellows.

Eodem Die.

Thomaſin Smith the Mother of *Mary Smith* before named, ſaith, That *Grace Weeks* came to this Informant and told her, that the Doctor came to bed to her the ſaid *Grace*, and to the ſaid *Mary* ſeveral times, and ſaith, That Mrs. *Wells* a Servant for many Years in the Doctors Family, told this Informant that the Doctor was a very rude Man to all the Maids that ever lived with him, and particularly that one *Katherine Wakeham* that left his Service with a great Belly, could never be at quiet for him, as Mrs. *Wells* told this Informant; and one Goodwife *Harvey* blamed this Informant for placing her Daughter with the Doctor, when no body was at home but him, ſaying, He was a very rude Man to his Maids.

Eodem die Jurat' cor' Dom' Epiſ. *Thomaſin Smith.*

14 *Die Julii*, 1690.

John Smith ſaith, That he was Servant to Dr. *Bury*, when one *Martha Wotton* was Servant there; and that one Night this Informant ſetting down on the great Chair in the Doctors Hall,

he did ſee the Doctor and the ſaid *Martha* cloſe together in a Settle in the Hall, and talking ſoftly together, and when they perceived this Informant to riſe up, they went away in the dark into the Kitchin, and ſtaid there for ſome time.

Eodem die jurat' cor' Dom' Epiſc'. *John Smith.*

The Depoſition of Thomaſin Smith, *Wife of* Ferdinando Smith *of* Oxford, *Taylor, taken before* Edward Combes *one of their Majeſties Juſtices of the Peace for the City of* Oxon. *Jan.* 31. 1691.

THis Deponent declares, That about fifteen Months ſince ſhe did tell Mrs. *Wells* as they were going to the Market, that ſhe would declare what ſhe knew of Doctor *Bury* if he turned her out of her place, and within a Week or thereabout after this, Mrs. *Guiſe* Daughter in Law to the ſaid Doctor, did call her this Deponent into her Chamber, and was very earneſt to have this Deponent ſwear to her, not to diſcover what ſhe knew concerning the Rector, which this Deponent told her ſhe would not do, but refuſed to ſwear.

This Deponent further ſaith, That *Catherine Wakehan* lived with Doctor *Bury* at *Exeter* College a conſiderable time after ſhe was delivered of a Baſtard Child, and the young Man that was the reputed Father of the Baſtard lived with him ſome time alſo after the ſaid *Wakehan's* Delivery.

This Deponent further ſaith, That ſhe never enquired of *Joan Richardſon* or her Mother, where *Elizabeth Terry* lived, nor ever ſaid to them or any other that the ſaid *Terry* ſhould be well rewarded if ſhe would ſay any thing againſt Doctor *Bury*, or any words to that purpoſe.

Jurat' 31 die *Januarii* An' Dom' $16\frac{90}{91}$. cor' me. *Edw. Combes.*

The Mark of *Thomaſin* D *Smith.*

The

The Deposition of Alice Hern *Wife of* Arthur Hern *of* Oxon, *Barber.*

THis Deponent on Oath saith, That she hath several times heard Goodwife *Harper*, Wife of *William Harper* of *Oxon*, Malt-man, ask *Thomasin Smith* why she would let her Daughter live with Doctor *Bury*, saying, That the said Doctor was reckoned a great Whore-master.

Jurat' coram me 31 die Jan' Anno Dom' $16\frac{10}{11}$.
Edw. Combes.

Alice Hern.

The Deposition of John Gigger *of* Oxford, *only Brother of* Alice Gigger *(at present) of* London.

THis Deponent on his Oath saith, That he never Writ a Letter to his Sister *Alice* by the instigation of Mr. *Colmer*, or his Lawyer of *New College*, wherein he told her that she should not discover any thing, for if she did she should take care of her self, for *Colmer* would do her a mischief, or any words to that purpose, and that she hath no Brother but him, or Brother in Law, or hath had this thirty Years. And that he never writ any thing to her concerning Mr. *Colmer* in his Life.

This Deposition was before me made upon Oath *Jan.* 31. $16\frac{10}{11}$. Witness my Hand.
Edw. Combes.

John Gigger.

FINIS.

BOOKS Printed for *Tho. Bennet* at the *Half-Moon* in St. *Pauls* Church-yard.

AN Account of the Proceedings of the Right Reverend Father in God, *Jonathan* Lord Bishop of *Exeter*, in his late Visitation of *Exeter* College in *Oxford*, the second Edition, to which is added the Censure of the University of *Oxford* upon the Naked Gospel.

A Critical History of the Text of the *New Testament*, wherein is firmly established that Truth of those Acts on which the Foundation of the *Christian Religion* is laid, by *Richard Simon* Priest.

The Life of that most Illustrious Prince *Charles* V. late Duke of *Lorrain*, and *Bar. Generalissimo* of the Imperial Armies, render'd into English from the Copy lately printed at *Vienna*, Written by a Person of Quality, and a great Officer in the Imperial Army.

The Morals of *Confucius* a Chinese Philosopher, who flourished above five hundred Years before the coming of our Lord and Saviour *Jesus Christ*, being one of the most choicest pieces of Learning remaining of that Nation.

The Reason of Mr. *Bayes's* changing his Religion, considered in a Dialogue, in three Parts.

The Art of Practical Measuring easily performed by a two foot Rule, which slides to a Foot on which is the best manner of round Timber the Common Way: Also the true Measure of round, square, or other Timber, or Stone, Boards, Glass, Paving, Painting, Wainscot, *&c.* Gauging of Casks, and Gauging and inching of Tuns, containing brief Instructions in Decimal Arithmetick, the best way of using the Logarithms according to Mr. *Townley*; the use of a new Diagonal Scale, of 100 parts in a quarter of an Inch, applied to *Gunters* Chain; and lastly, some useful Directions in Dialling not hitherto published, by *Henry Coggeshall*, Gent.